

City Council Meeting Minutes

**May 7, 2019
City Hall, Council Chambers
749 Main Street
7:00 PM**

Call to Order – Mayor Muckle called the meeting to order at 7:00 p.m.

Roll Call was taken and the following members were present:

City Council: *Mayor Robert Muckle
Mayor Pro Tem Jeff Lipton
Councilmember Jay Keany
Councilmember Chris Leh
Councilmember Susan Loo
Councilmember Dennis Maloney
Councilmember Ashley Stolzmann*

Staff Present: *Heather Balser, City Manager
Megan Davis, Deputy City Manager
Nathan Mosely, Parks, Recreation, & Open Space Director
Ember Brignull, Open Space Superintendent
Kurt Kowar, Public Works Director
Rob Zuccaro, Planning & Building Safety Director
Lisa Ritchie, Senior Planner
Chris Neves, Information Technology Director
Dave Hayes, Police Chief
Meredyth Muth, City Clerk*

Others Present: *Kathleen Kelly, City Attorney
Nick Cotton-Baez, City Attorney*

PLEDGE OF ALLEGIANCE

All rose for the pledge of allegiance.

APPROVAL OF AGENDA

Mayor Muckle called for changes to the agenda and hearing none, moved to approve the agenda; seconded by Councilmember Stolzmann. All in favor.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

APPROVAL OF THE CONSENT AGENDA

MOTION: Mayor Muckle moved to approve the consent agenda, seconded by Councilmember Leh. All in favor.

- A. *Approval of Bills***
- B. *Approval of Minutes: April 9, 2019; April 16, 2019***
- C. *Approval of Older American's Month Proclamation***
- D. *Approval of National Gun Violence Awareness Day Proclamation***
- E. *Approval of Police & Courts Records Management System Software Procurement***
- F. *Approval of Purchase of 2018 Dodge Ram 4x4 Crew Cab***

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

None.

CITY MANAGER'S REPORT

City Manager Balser stated the Open Space Division along with Boulder County and the City of Lafayette hosted an event at the Seventh Generation Farm the previous weekend which was a great success.

Balser added that on June 1 the City will host a drive-in movie and an informational open house in the former Sam's Club parking lot on McCaslin Boulevard.

REGULAR BUSINESS

ORDINANCE NO. 1771, SERIES 2019 – AN ORDINANCE AMENDING THE BUSINESS CENTER AT CTC GENERAL DEVELOPMENT PLAN TO REZONE LOT 19, BLOCK 1, TO PLANNED COMMUNITY ZONE DISTRICT – INDUSTRIAL AND TO ALLOW USES FROM THE INDUSTRIAL ZONE DISTRICT ON LOTS 18 AND 19, BLOCK 1, THE BUSINESS CENTER AT CTC – 2nd READING, PUBLIC HEARING (advertised Daily Camera 4/21/19)

City Attorney Kelly read the title of the ordinance. Mayor Muckle introduced the ordinance and opened the hearing.

Planner Ritchie stated this is consideration of an amendment to the GDP of the Business Center at CTC. She reviewed the previous GDP amendments on the property. This site, located between the existing Fed Ex property and the Pearl Izumi property in CTC, must currently must develop under the commercial design guidelines. This request is to rezone the property to PCZD – Industrial. There are no longer any properties with commercial zoning in this area as they have all rezoned. Previous applicants demonstrated limited commercial viability in this location. The area has changed, and Industrial uses are suitable and appropriate for this development. Ritchie also reviewed the fiscal analysis.

Staff recommends approval of the ordinance.

Mayor Pro Tem Lipton stated it is unfortunate we are zoning out all of the commercial uses in CTC. The vision for the CTC was there would be commercial uses in this area. He asked if this is zoned Industrial, does that preclude commercial uses later. Ritchie stated a commercial use could happen with a Special Review process either administratively or concurrent with the PUD approval from Council.

Public Comments – None

Mayor Muckle asked again for Public Comments and seeing none closed the public hearing.

Councilmember Keany moved to approve ordinance 1771; Councilmember Stolzmann seconded the motion. Mayor Muckle called for discussion of the motion.

Mayor Muckle agreed with Mayor Pro Tem Lipton that the lack of commercial uses in the CTC is unfortunate, but he generally doesn't have an issue with this change.

Councilmember Leh agreed. He noted we should treat the properties equitably and we have done this for surrounding properties.

Vote: Motion carried by unanimous roll call vote.

ORDINANCE NO. 1772, SERIES 2019 – AN ORDINANCE AMENDING TITLES 4 AND 14 OF THE LOUISVILLE MUNICIPAL CODE CONCERNING REGULATION OF OPEN SPACE AND PARKS – 2nd READING, PUBLIC HEARING (advertised Daily Camera 4/21/19)

City Attorney Kelly read the title of the ordinance. Mayor Muckle introduced the ordinance and opened the open hearing.

Director Mosley stated this ordinance amends Titles 4 and 14 of the Municipal Code. He stated the goal is to allow the rangers to enforce the rules. He noted portions of the Code were out of date and the changes are meant to align the code with current practices.

The Open Space Board and Parks Board have both reviewed the ordinance. Following an initial review by City Council it was sent to the Legal Review Committee for input. In addition, an amendment requested on first reading has been incorporated in this version.

Director Mosley reviewed the goals of the ordinance: 1) to align the provisions of Titles 4 and 14 with the current needs of the department and with desired trends; 2) provide parallelism between Titles 4 and 14 to assist park and open space users and staff with interpretation; 3) restructure Titles 4 and 14 to clarify headers and groupings for readability and comprehension; 4) amend the definitions' sections so terms of one title have the same meaning as those of the other; and 5) add prohibitions to protect rangers, law enforcement, rescue personnel, and City employees.

He noted this proposal would 1) amend the definition of open space to match the Home Rule Charter, 2) institute a reduction of the maximum leash length from 15 feet to 10 feet, and 3) ban smoking and vaping in all City Park properties including parking lots and sidewalks with the exception of the Coal Creek Golf Course.

He added that staff is recommending a slight change in numbering in Section 14.12.101K to switch items two and three. This would align the numbering of open space rules with the corresponding parks rules.

Staff recommends approval of the ordinance.

Public Comments – None.

Councilmember Stolzmann asked why the change to the numbering is needed. City Attorney Cotton-Baez noted there is no parallel provision for number 2 in subsection K of the open space side. One of the goals was to align the numbers to make it easier for the rangers to write tickets. Making subsection 3 into subsection 2 would align those sections.

Councilmember Stolzmann confirmed the goal is to have the smoking prohibition on all parks and open space. Staff agreed.

Councilmember Keany asked how the smoking ban will be enforced on sidewalks adjacent to parks. Councilmember Leh stated it will be enforced as it would any other way. There is no way to easily exclude the sidewalks without allowing it in the park.

Councilmember Keany stated it seems extreme to enforce this on areas that happen to be adjacent to a park and someone is just walking by smoking.

Mayor Pro Tem Lipton stated the smoke goes in the park regardless. He stated he doesn't think it is unreasonable to have someone not smoke adjacent to a park.

Councilmember Maloney stated he thinks the prohibition on sidewalks adjacent to parks feels like government over reach.

Councilmember Stolzmann stated the education piece is important and we are mostly reaffirming existing rules. We will need to communicate that. She supports approving it as presented tonight. She stated that when she has talked with people most are in favor of banning smoking in the parks and in some places the sidewalk is directly next to the playground. She thinks it is a reasonable way to control smoking in the parks.

Public Comments – None.

Mayor Muckle closed the public hearing.

Councilmember Keany stated he can't support this with the smoking restrictions as presented. The smoking ban shouldn't go beyond the boundaries of the park; it is unreasonable.

Cotton-Baez clarified the ordinance does not use the term adjacent; the intent is to ban smoking within parks. The definition of parks used in the ordinance covers "all grounds, roadways, avenues, parking lots, and areas and recreational facilities therein." In addition, there is no language in the compliance section that would make adjacent sidewalks an area of no smoking. Therefore the ban does not apply to adjacent sidewalks.

Mayor Muckle moved to approve the ordinance with the changes presented tonight related to the open space definition and the change in numbering in one section; Councilmember Stolzmann seconded.

Vote: Motion carried by unanimous roll call vote.

STATE HIGHWAY 42 UNDERPASS

Mayor Muckle stated there will be one presentation for all of the six items and then each item will be acted on individually.

Director Kowar stated these items all relate to building the underpass under Highway 42 from the Kestrel Housing Development to the east side of Highway 42. It will also build a sidewalk from the east side of the underpass south the Hecla Drive and one on the west side of the underpass alongside of Kestrel to connect to the existing trails. This is a major trail connection and will provide a safe crossing of Highway 42.

Staff is asking for approval of a construction contract with Edge Contracting in the amount of \$2M and a contingency in the amount of \$200,000 to build the underpass.

Also for consideration is an intergovernmental agreement with Boulder County for a payment from them for \$850,000 for the project. Staff is also working on additional matching funds for the project for up to 50%. In the future there may be an amendment to this IGA for additional funds.

This project includes a resolution for an agreement with the Boulder County Housing Authority to allow for construction staging to happen on their property at Kestrel.

Finally there is an ordinance and resolution for consideration of a purchase of a parcel of land for right-of-way for the project for grading and access.

Total project cost is \$2.3M and will require a future budget amendment of \$480,000. When all money from the County is received, the net cost to the City is estimated to be \$1,150,000. Construction would start this summer with a spring 2020 completion date.

Public Comments – None.

Mayor Muckle stated this is a great project that will allow trail use all the way from Waneka Lake to Davidson Mesa. Councilmember Stolzmann agreed.

AWARD BID FOR THE STATE HIGHWAY 42 UNDERPASS PROJECT

Councilmember Stolzmann moved to award the bid to Edge Contracting; Councilmember Loo seconded.

Councilmember Maloney stated this is a new appropriation of almost \$500,000 without having had the discussion of how much the 2018 roll forwards will be. Doing this without that information is difficult.

Mayor Muckle asked when the City will receive the County reimbursement. City Manager Balser stated that reimbursement will reduce the budget amendment by about half. The budget amendment will come in June and we do have adequate dollars to fund this.

Vote: Motion carried by unanimous roll call vote.

APPROVE CONTRACT AMENDMENT BETWEEN THE CITY OF LOUISVILLE AND OTAK (FORMERLY LORIS AND ASSOCIATES) FOR THE STATE HIGHWAY 42 UNDERPASS PROJECT

Councilmember Stolzmann moved to approve the amendment; Councilmember Keany seconded.

Voice vote, all in favor.

RESOLUTION NO. 14, SERIES 2019 – A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH BOULDER COUNTY FOR HIGHWAY 42 MULTIMODAL INFRASTRUCTURE IMPROVEMENTS

Councilmember Stolzmann moved to approve Resolution No. 14; Councilmember Keany seconded.

Voice vote, all in favor.

RESOLUTION NO. 15, SERIES 2019 – A RESOLUTION APPROVING A REVOCABLE LICENSE AGREEMENT WITH BOULDER COUNTY HOUSING AUTHORITY FOR STAGING OF THE STATE HIGHWAY 42 UNDERPASS PROJECT

Councilmember Stolzmann moved to approve Resolution No. 15, Mayor Pro Tem Lipton seconded.

Voice vote, all in favor.

ORDINANCE NO. 1773, SERIES 2019 – AN ORDINANCE AUTHORIZING THE PAYMENT OF CITY MONEYS FOR THE CITY’S ACQUISITION OF PROPERTY LEGALLY DESCRIBED AS OUTLOT A, DAVIDSON HIGHLINE SUBDIVISION REPLAT 2 – 1st READING – SET PUBLIC HEARING 5/21/19

City Attorney Kelly introduced this by title and stated this is for first reading and to set the public hearing.

Mayor Muckle moved to approve Ordinance No. 1773 on first reading and set the public hearing for May 21; Councilmember Loo seconded.

Voice vote, all in favor

RESOLUTION NO. 16, SERIES 2019 – A RESOLUTION APPROVING A PURCHASE CONTRACT TO BUY AND SELL REAL ESTATE FOR THE CITY’S ACQUISITION OF PROPERTY LEGALLY DESCRIBED AS OUTLOT A, DAVIDSON HIGHLINE SUBDIVISION REPLAT 2

Mayor Pro Tem Lipton moved to approve Resolution No. 16; Councilmember Keany seconded.

Voice vote, all in favor.

DISCUSSION/DIRECTION/ACTION – CONSTRUCTION CONTRACT WITH HAYWARD BAKER INTERNATIONAL FOR COYOTE RUN SLOPE MITIGATION AND CONSTRUCTION MANAGEMENT FUNDS WITH TERRACON FOR CONSTRUCTION OBSERVATION AND POST CONSTRUCTION MONITORING

Mayor Muckle introduced the item. Mayor Pro Tem Lipton recused himself from the discussion as he owns property adjacent to this site. He left the room.

Director Kowar stated over the past few years there has been an area in the Coyote Run Open Space that has been slumping and settling downhill. Staff has been working since August on a design-build process with Hayward Baker to design a project to address this with a performance warranty.

Staff is recommending a sole source contract with Hayward Baker for construction of improvements with the contract to be finalized by the City Manager. This project would include a drilled shaft and pier system. There will be 30 shafts, each shaft would be a 30-inch hole roughly 30 feet down into the bedrock and filled with steel and concrete. They would all be connected with a cap and the buried system and would be regraded. The existing monitoring shows there is slow movement of the soil that we want to stop.

The cost of the contract is \$500,000 with an additional \$40,000 with Terrecon for ongoing monitoring of the site. Staff has worked with the HOA for construction access. There is also a performance warranty on the project.

Councilmember Loo stated we are assuring the safety of the homes on the hill, but it said there could be further movement below the installed shafts. The safety of the homes is the priority, not the aesthetic of the area below the shafts. She doesn't want a request to come later for more work on the lower side of the shafts if there is no safety issue.

Director Kowar stated the lower slope could still slide some on the downhill side of the new system.

Councilmember Loo stated this is a good approach. She asked if the sidewalk from the neighborhood leads to a formal trail or a social trail. Brignull stated it is a social trail and that trail could not be converted to a formal trail as it can't meet ADA requirements.

Public Comments

Patricia Duff, representing the Saddleridge HOA, stated the landslide has been apparent since 2015 and is expanding into the HOA property. She thanked everyone for the attention to this issue and encouraged approval of the mitigation contract and monitoring.

Councilmember Stolzmann moved to give approval to the City Manager to finalize a contract with Hayward Baker not to exceed \$500,000 and a monitoring contract with Terracon not to exceed \$40,000; Councilmember Keany seconded.

Vote: Motion carried by unanimous roll call vote.

EXECUTIVE SESSION

REAL PROPERTY ACQUISITION AND DISPOSITION

(Louisville Charter, Section 5-2(c) – Authorized Topics – Consideration of real property acquisitions and dispositions, only as to appraisals and other value estimates and strategy, and C.R.S. 24-6-402(4)(a))

City Attorney Kelly introduced the request for executive session.

Mayor Muckle stated the City Manager is requesting an Executive Session for the purpose of consideration of potential property acquisition and disposition in Louisville.

The City Clerk read Section 2.90.050 – Public statement of the Louisville Municipal Code, which outlines the topics permitted for discussion in an executive session.

City Attorney Kelly stated the authority to conduct this executive session is in the Charter Section 5-2(c) for Council to discuss potential real property acquisitions and dispositions, with regard to properties in Louisville, but only as to appraisals and other value estimates and strategy, and C.R.S. 24-6-402(4)(a).

MOTION: Mayor Muckle moved the City Council adjourn to executive session for the purpose of consideration of potential real property acquisitions and dispositions, with regard to properties in Louisville, but only as to appraisals and other value estimates and strategy; and the executive session include the City Council, City Manager, Deputy City Manager, the City Attorney, the Parks, Recreation & Open Space Director, and Open Space Superintendent. Seconded by Councilmember Stolzmann.

Voice vote: all in favor.

The City Council adjourned to executive session at 8:06 pm.

The City Council meeting reconvened at 8:52 pm.

REPORT – DISCUSSION/DIRECTION/ACTION – REAL PROPERTY DISPOSITION AND ACQUISITIONS

City Attorney Kelly reported in executive session City Council discussed a matter concerning real property acquisitions and dispositions in Louisville. No specific action was requested for follow up on the executive session.

CITY ATTORNEY'S REPORT

None.

COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF FUTURE AGENDA ITEMS

Mayor Muckle reported that later in the month the Mayor, City Manager, and Economic Development Director will be attending the International Council of Shopping Centers conference where they will meet with commercial brokers and retailers from Louisville.

Mayor Muckle stated the City has been asked to contribute to the Boulder County Homeless Solutions. He stated perhaps the City should make a small contribution of perhaps \$1000 from the City. This would be within the City Manager's authority to approve. After that he would suggest the organization approach the City for a donation through the biannual non-profit grant process.

Councilmember Loo stated that on June 13 there will be a BRaD forum and the speaker will be Rich Wobbekind. Councilmember Leh encouraged councilmembers to attend.

Councilmember Keany stated the Youth Advisory Board is done for the year and is recruiting new members for next year.

ADJOURN

Members adjourned at 8:58 pm.

Robert P. Muckle, Mayor

Meredyth Muth, City Clerk